

b.) Remarks

Claims 1, 2, 4, 6-16, 39-42 and 46 are pending in this application. Claims 1, 39, and 46 have been amended in various particulars as indicated hereinabove.

Claims 1, 2, 4, 6-16, 39-42 and 46 were rejected under 35 U.S.C. 103(a) as being unpatentable over Foster *et al.* (Foster) (U.S. Pat. Publ. No. 2003/0202536), and further in view of Doshi *et al.* (Doshi) (US 6,529,499B1). This rejection is respectfully traversed for the following reasons.

The filing date of Foster is October 26, 2001. Thus, absent more, Foster would not be prior art to the present application, which was filed on July 31, 2001.

Foster, however, claims the benefit of several provisional applications. And we know, material in Foster may be cited against the patentability of present application only when that material is supported by at least one of those provisional applications that was filed before the filing date of the present application. This principle is explained in the Manual of Patent Examining Procedure MPEP at §706.02(f) (1). Specifically Rev. 5, Aug 2006 version of the MPEP provides at page 700-31 that:

For reference publications and patents of parent applications filed under 35 U.S.C. 111(a), the prior art dates under 35 U.S.C. 102(e) accorded to these references are the earliest effective U.S. filing dates. Thus, a publication and patent of a 35 U.S.C. 111(a) application, which claims “benefit” under 35 U.S.C. 119(e) to a prior U.S. provisional application or claims the benefit under 35 U.S.C. 120 of a prior nonprovisional application, would be accorded the earlier filing date as its prior art date under 35 U.S.C. 102(e), assuming the earlier-filed application has proper support for the subject matter as required by 35 U.S.C. 119(e) or 120.

Thus, subject matter from Foster is only prior art to the present application when that subject matter is supported by an earlier filed one of the provisional applications to which it claims benefit.

In a previous Office Action, mailed March 17, 2006, it was argued that Provisional Application No. 60/287,075, which was filed on April 27, 2001 (hereinafter Cited Provisional), provided the necessary support for the portions of the Foster Non-Provisional. In total, pages 33-47, 53-54, 71-77, 146-167, and 259-268 of the Cited Provisional were cited as being relevant to this issue of support. The present claimed

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invention is neither anticipated nor obvious over those sections of the Cited Provisional. Foster and Cited Provisional concern a switch, rather than the claimed router. It is well known that switches and routers are different types of devices.

Nevertheless, to expedite prosecution, each of claims, including new claim 46, describes the blocking "to nullify a denial of service attack". This feature as claimed is neither shown nor suggested in either Foster nor the Cited Provisional nor the secondary reference (Doshi).

Withdrawal of the rejections is requested.

It is believed that the present application is in condition for allowance. A Notice of Allowance is respectfully solicited. Should any questions arise, the Examiner is encouraged to contact the undersigned.

Respectfully submitted,

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